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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,775	07/06/2004	Hans-Peter Barthelt	229236	8671
23460	7590	08/04/2005	EXAMINER	
LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6780			TRETTEL, MICHAEL	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/500,775

Applicant(s)

BARTHELT, HANS-PETER

Examiner

Michael Trettel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-41, 43-52 and 61-64 is/are rejected.
- 7) ☒ Claim(s) 42 and 53-60 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07/06/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Objections*

Claims 38 and 39 are objected to because of the following informalities: in lines 2 and 3 of claim 38 --a-- should be inserted before “horizontal” and “vertical” respectively. In claim 39 “brake” has been misspelled as “break”. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32 to 35, 40, 41, 43 to 52, and 61 to 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green et al (US 5,095,561) in view of James-Wallace (US 5,390,380). Green et al shows an invalid bed 10 that can convert to a chair. The bed comprises a rigid bedframe with legs 12, 14 connected by siderails 16, and an articulated support surface supported upon a carriage 20. A back section 22 is mounted to the carriage 20 upon a pivot 24, a thigh section 28 pivotally mounted to the carriage at pivot 32, and a lower leg section 26 pivotally mounted to the thigh section at a pivot 30. As detailed in column 2, lines 60 to 68, and column 3, lines 1 and 2 a conventional actuating means is used to pivotally actuate the back section and leg sections of the support surface. The carriage 20 includes a central spindle 34 journal led to a support plate 36. This allows the entire articulated support surface to be turned to one side as is

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shown in Figures 2 and 5, to convert the bed into a sideways facing chair. This allows an invalid to enter and exit the bed from the side. This also make it possible to tip the bed to one side, if the person entering and/or exiting the bed shifts the center of gravity too much to one side. James-Wallace teaches that it is known in the art to provide an invalid bed 12 with a stabilizing outrigger or leg 26 when the bed is used in combination with a hoist 10 that allows entry and exit from one side of the bed. The leg 26 is formed as a telescoping frame member 27a that is received within a beam member 20 mounted transversely to the bedframe. A foot member 28 is attached to a distal end 27b of the frame member, and can be adjusted vertically with respect to the bed. Secondary embodiments are shown in Figures 2 to 6, which show a telescoping inclined outrigger 66 (Figure 2), a pivotally mounted outrigger 74 (Figure 3) mounted to the side edge of the bedframe, and a rigidly fixed outrigger 82 (figure 4). The end of the outrigger has a foot member that includes a horizontal plate element 28, 78, 86 that engages the floor. The use of the stabilizing leg allows an invalid to be moved transversely off the bed in a sideways direction, without possibly tipping the bed over upon its side. It would have been obvious to one of ordinary skill in the art to have provided the invalid bed/chair device shown by Green et al with a transverse stabilizing outrigger or leg as taught by James-Wallace. The motivation would have been to prevent possible tipping of the Green et al bed to one side when transferring an invalid to one side of the bed, when the bed is converted to a sideways facing chair. As regards claims 36 to 39, the applicant is claiming the use of a fork type castor assembly with an integrated brake in combination with an invalid bed. The examiners takes notice that this is an old and well known combination of elements in the art, and that although Green et al does not show these particular

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features the use of a fork type castor of the type claimed upon the Green et al bed would have been obvious to the skilled artisan.

### *Allowable Subject Matter*

Claims 42 and 53 to 60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Iura, MacDonald, and Howell show adjustable beds that can convert into a sideways facing chair which are of general interest. Sherrow et al shows a patient gurney with a stabilizing outrigger assembly of general interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is (571) 272-7052. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (571) 272-7052. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in dark ink, appearing to read "Michael Trettel", with a long horizontal line extending to the right.

Michael Trettel  
Primary Examiner  
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